

**IN THE UNITED STATE DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

**NGUYEN CAU THI and)
HUNG DINH TRAN,)
Plaintiffs,)
v.)
SCHNEIDER NATIONAL) Cause No.: 03-1065-CV-W-DW
CARRIERS, INC., and JOHN DOE,) Chief District Judge Dean Whipple
Defendants.)**

ORDER

NOW ON THIS 21st day of September, 2005, the above-styled cause comes on for hearing on Plaintiffs' Application for Approval of Wrongful Death Settlement and Plaintiffs' Motion to Extend the Time to Serve defendant John Doe. Plaintiffs appear in person and by their attorneys Michael P. Healy and Michael Fleming. Defendant appears by its attorneys Dean Nash. Evidence was heard and the cause was submitted on the pleadings and the evidence adduced.

The Court finds that on or about July 1, 2003, Quang Dinh Tran was helping change a tire on a vehicle which was legally parked on the right shoulder of southbound Interstate 35 Highway in Franklin County, Kansas, when he was struck by an unidentified semi- tractor which failed to stop at the scene of the accident.

The Court further finds Quang Dinh Tran was survived by his natural parents, and no others authorized by the provisions of § 537.080, R.S.Mo, 1994, to claim damages on account

of the wrongful death of Quang Dinh Tran.

The Court further finds that the amount of the total settlement approved is \$160,000.00 and that the same has been delivered to and acknowledged by plaintiffs.

The Court further finds that plaintiffs have employed the services of The Healy Law Firm, LLC, to assist them in the preparation and prosecution of their claims for the wrongful death of Quang Dinh Tran and have agreed to pay said attorney an attorney's fee equal to one-third of any and all sums recovered by said plaintiffs, which, under the proposed contract of settlement would call for the payment of an attorney's fee of \$53,333.00 which amount is fair and reasonable.

The Court further finds that the plaintiffs have agreed to reimburse The Healy Law Firm, LLC, the sum of \$6,475.42 as and for the expenses incurred in the preparation and prosecution of this case, which amount is fair and reasonable.

The Court further finds that plaintiffs' net recovery of \$100,191.58 shall be paid to the plaintiffs jointly.

The Court further finds that, pursuant to Fed.R.Civ.P. 4(m), there is good cause to grant plaintiffs to and including October 28, 2005, in which to serve defendant John Doe and/or take such other and further actions against liable parties as is proper under the circumstances.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the settlement agreement between the parties in the total amount of \$160,000.00 is approved, that the

\$53,333.00 attorney's fee is approved, that the repayment of \$6,475.42 in case expenses is approved, and that the balance shall be paid to the plaintiffs jointly.

It is also ORDERED that plaintiffs are granted to and including October 28, 2005, in which to serve defendant John Doe and/or take such other and further actions against liable parties as is proper under the circumstances.

It is also ORDERED that plaintiffs' claims against defendant Schneider National Carriers, Inc., are dismissed with prejudice, with all parties to pay their own costs.

SO ORDERED.

/S/ DEAN WHIPPLE
Hon. Dean Whipple
United States District Judge

Date: September 28, 2005